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Opinion No. 63-18

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REQUESTED BY: VICTOR L. NIELSEN, JR.
Executive Secretary
State Planning and Building Commission

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Subsequent to amendment of Title 3, Chapter 8, Article 1, Arizona Revised Statutes, by the Twenty-sixth Arizona Legislature (First Regular Session, 1963), enactment of H. B. 264, A.R.S. (New Sections 3-1006 to 3-1012, inclusive), will the Arizona State Fair Commission remain subject to the authority of the State Planning and Building Commission?

ANSWER: Yes, see body of Opinion.

The State Planning and Building Commission (hereinafter referred to as Planning Commission) exercises broad advisory and supervisory powers over construction, alteration and repair of State property and buildings. A.R.S. § 41-571.01 et seq. The apparent legislative purpose was to provide uniform consideration of contemplated construction by state agencies where the cost thereof exceeds ten thousand dollars.

In defining the sphere of the Planning Commission's authority over the various state agencies, the legislature has defined a state agency as:

" . . . the state, its departments, institutions, agencies and instrumentalities."
A.R.S. § 41-571.01.5

This definition is a deliberately broad one intended to cover all of the institutions and instrumentalities normally defined in administrative law as agencies of the State (i.e., Boards, Commissions, Departments, Divisions and even single officers). 1 Am. Jur.2d 850 "Administrative Law" § 49.

The recent legislative amendment, A.R.S. § 3-1006 through 3-1012, inclusive, amends the existing statute, Title 3, Chapter 8, Article 1, of Arizona Revised Statutes, by providing among other things for the incorporation of the Arizona State Fair Commission, giving it the power to issue its own bonds and authority to, "construct all proper exhibition halls, auditoriums and coliseums, and to furnish and equip the same." A.R.S. § 3-1007.2. The new statutes, however, contain no language indicating that the Fair Commission should be excluded from the present definition of a State agency.

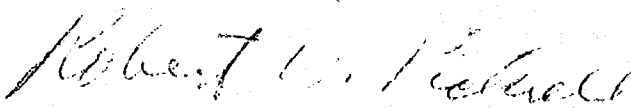
The legislation creating the authority of the Planning Commission to advise and maintain files with respect to the construction of state buildings and the inspection thereof, as well as the requirement that agencies contemplating construction must seek its approval remains unchanged and applies to all agencies (see, e.g., A.R.S. §§ 41-571.09, 571.10, 571.11 and 571.12).

Moreover, the specific state agencies which are exempt from the Planning Commission's control and jurisdiction have not been enlarged to include the Fair Commission. A.R.S. § 41-571.14(a).

However, A.R.S. § 41-571.14 (b) provides that:

"Programs, projects or improvements by any state agency shall be exempt from the provisions of this article if it appears from the estimates of cost made by the state agency that the total cost for the proposed improvement or project will not exceed ten thousand dollars." (Emphasis supplied)

Accordingly, it is the opinion of this office that:
(a) Projects by the Fair Commission which will not exceed ten thousand dollars in total cost are exempt from the State Planning and Building Commission's powers under Title 41, Chapter 3, Article 5.1; (b) Projects of the Fair Commission which will exceed ten thousand dollars in total cost are in all respects subject to the provisions of Title 41, Chapter 3, Article 5.1.


ROBERT W. PICKRELL
The Attorney General